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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,538	08/05/2003	John Campbell Woodard	DUMMER4.1C1C1	6048

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KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER
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MANUEL, GEORGE C

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,538	WOODARD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	George Manuel	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 15-33 is/are rejected.
- 7) ☒ Claim(s) 8-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/5/03</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 2-7, 15, 21, 22, 25, 27-33 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Nakazeki et al '357.

Nakazeki et al disclose a hydrodynamically suspended impeller 22. The housing shown in Fig. 11B provides a stator assembly. Permanent magnet 24 is in impeller 22 and permanent magnet 14 in rotor 12 supports the radial direction and driving of

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impeller 22. Fig. 14A shows the blades 224 and 225 supported in a somewhat conical position.

Claims 24 and 26 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Khanwilkar et al '180.

Khanwilkar et al disclose a hydrodynamically suspended impeller 21 and a three phase brushless DC motor 40.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khanwilkar et al '180 in view Nose et al '730.

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Khanwilkar et al '180 show all of the claimed features except for a ceramic housing and coating using a biocompatible film.

Nose et al teach:

"With regard to the pivots 104 and 105 and the pivot bearings 106 and 107, it is desirable that both the pivots and the pivot bearings are made of a ceramic. However, it is also within the scope of the present invention that either the pivots or the pivot bearings are made of a ceramic and the others are made of metal, such as a titanium alloy, for example. Further, it is also an alternative to have the pivots or the pivot bearings made of metal but coated with a ceramic on the surface of the metal." See col. 8, line 66 to col. 9, line 24. Further, "since silicon carbide contains carbon, it is superior in sliding performance. For these reasons, silicon carbide is best suited." See col. 7, lines 12-42.

Using the teaching of Nose et al one of ordinary skill in the art would have found it obvious to form the housing of Khanwilkar et al of ceramic and coat it using a biocompatible film.

#### ***Allowable Subject Matter***


Claims 8-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (703) 308-2118.

5/18/04

  
George Manuel  
Primary Examiner  
Art Unit: 3762